

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GREGORY FELTON,

Plaintiff,

-against-

LONG ISLAND RAILROAD COMPANY,

Defendant.
-----X

COMPLAINT

PLAINTIFF DEMANDS
TRIAL BY JURY

Plaintiff, by his attorney, FREDRIC M. GOLD PC, complaining of the defendant, respectfully shows to this Court and alleges:

1. The action herein arises under the Federal Employer's Liability Act (45 U.S.C. Sec. 51 et al.).
2. Upon information and belief and at all times herein mentioned, the defendant was a public benefit corporation organized and existing under and by virtue of the laws of the State of New York.
3. Upon information and belief and at all times herein mentioned, the defendant is incorporated in the County of Queens having its principal place of business in the County of Queens.
4. Upon information and belief and at all times herein mentioned, the defendant has been and still is doing business in the County of New York, State of New York, within the jurisdiction of this Court.
5. At all times herein mentioned, the defendant was and now is a common carrier by rail engaged in interstate commerce between different states in the United States.

6. That on or about August 5, 2021 and at all times hereinafter mentioned the defendant employed the plaintiff as a Trackman/Machine Operator in furtherance of its business in interstate commerce.

7. That on or about August 5, 2021 and at all times hereinafter mentioned, the defendant maintained and controlled railroad operations which included the Port Washington Line in the Counties of Queens and Nassau, in the State of New York, including offices, tracks, rails, tunnels, switches, sidings, roadbeds and appurtenances thereto, over through and upon which the defendant operated its engines, trains and cars under its direction and control.

8. That on or about August 5, 2021 and at all times hereinafter mentioned, while the plaintiff, as an employee of the defendant, was in the performance of his duties as a Trackman/Machine Operator at or near the aforesaid location, he was caused to sustain severe and disabling injuries as a result of the negligence, carelessness and recklessness of the defendant in failing to provide him with a safe place in which to work as hereinafter set forth.

9. That on or about August 5, 2021 and at all times hereinafter mentioned, the plaintiff was operating a barely operable, jerry-rigged declipper machine at the aforesaid location when it hit a pretzel that had been installed backwards. The machine stopped abruptly and threw the plaintiff to the side with his left leg still stuck in the operating position causing him to sustain severe injuries.

10. That said accident and resulting injuries to the plaintiff were caused solely by reason of the negligence, carelessness and recklessness of the defendant, its agents, servants and/or employees' in failing to exercise due care and diligence; in failing to provide plaintiff with a safe place to work and safe equipment with which to work; in failing to promulgate safety rules and procedures for activities carried out by their personnel at the aforesaid place; in failing to warn plaintiff of the existence of the dangers involved in the performance of his duties as a

Trackman/Machine Operator; in failing to install the pretzel correctly; in failing to inspect, discover and remediate the faulty installation of the pretzel; in failing to have procedures in place to ensure that pretzels are installed correctly; in failing to inspect and properly maintain the declipper machine involved in the plaintiff's accident; in failing to have procedures in place to inspect and maintain the declipper machine; in failing to maintain the declipper machine; in failing to repair the declipper machine; in assigning the plaintiff to work on a declipper machine which was in a known state of hazardous disrepair.

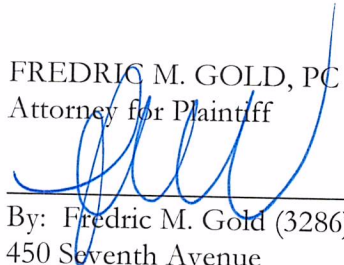
11. That the said injuries were incurred while the plaintiff was acting in furtherance of interstate commerce, or in work substantially affecting the same.

12. That the plaintiff was damaged in a sum in excess of SEVENTY-FIVE THOUSAND (\$75,000.00).

WHEREFORE, plaintiff demands judgment against defendant THE LONG ISLAND RAILROAD COMPANY, in a sum in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) together with costs and disbursements.

Dated: New York, New York
September 20, 2022

FREDRIC M. GOLD, PC
Attorney for Plaintiff


By: Fredric M. Gold (3286)
450 Seventh Avenue
New York, New York 10123
212.244.2740

To: Long Island Railroad Company
Legal Department
Jamaica Station
Jamaica, New York 11435